

830 CMR 40S.1.1: Smart Growth School Cost Reimbursement Procedures

830 CMR DEPARTMENT OF REVENUE

830 CMR 40S.00: SMART GROWTH SCHOOL COST REIMBURSEMENT

830 CMR 40S.00 is amended by adding the following section:

830 CMR 40S.1.1: Smart Growth School Cost Reimbursement Procedures

(1) Statement of Purpose; Application and Effective Date; Outline of Topics

(a) Purpose. 830 CMR 40S.1.1 explains the procedure to be followed by eligible municipalities in order to receive the annual state reimbursement provided under M.G.L. c. 40S for additional school costs resulting from an increase in public school students living in new housing units built in smart growth zoning districts approved under M.G.L. c. 40R.

(b) Application and Effective Date. Reimbursements under 830 CMR 40S.1.1 will be made to eligible municipalities beginning in fiscal year 2008, subject to funding. This regulation takes effect as of the date of promulgation.

(c) Outline of Topics. 830 CMR 40S.1.1 is organized as follows:

1. Statement of Purpose; Application and Effective Date; Outline of Topics
2. Definitions
3. Responsibilities of State and Local Officials
4. Reimbursement Procedure and Schedule
5. Reimbursement Computation.

(2) Definitions. For the purposes of 830 CMR 40S.1.1 only, the following terms shall have the following meanings:

Additional chapter 70 aid, for a municipal school district, the actual increase in chapter 70 aid calculated by the DOE for the fiscal year, including foundation and minimum aid increases, that is attributable to the municipality's eligible students from the school district. That amount is calculated as the positive difference between the district's actual chapter 70 aid and the amount the district would have received if the eligible students were excluded from the district's foundation budget. For a regional school district, the additional chapter 70 aid in the region is apportioned among member municipalities proportionally based upon the number of eligible students from each member municipality. For any municipality with eligible students from more than one school district, additional chapter 70 aid is calculated by totaling the additional chapter 70 aid at the municipal school district and the municipality's share of additional chapter 70 aid at each district of which the municipality is a member.

Assessed valuation, for each taxable parcel, the valuation that establishes the property tax collectible by the municipality for the fiscal year, which is calculated by adding (a) the valuation

upon which taxes were committed by the board of assessors under M.G.L. c. 59, § 53 after the setting of the annual tax rate and (b) the valuation upon which any omitted and revised assessments were committed by the board of assessors under M.G.L. c. 59, §§ 75 or 76 and subtracting from that sum any valuation upon which an abatement was granted by the board of assessors.

Average actual net school spending per student, for each school district, the actual net school spending per pupil, as defined by and reported to the DOE, for the fiscal year.

Base year, the fiscal year before changes in the use of land, buildings and structures made by the adoption of a smart growth zoning district by the municipality affect the valuation and taxation of properties within the district.

Base year assessed valuation, for each taxable parcel, the assessed valuation as of the January 1 before the adoption of the district by the municipality.

Board of assessors, the board or officer assessing local property taxes.

Chapter 70 aid, the amount of local aid the municipality or regional school district will receive from the Commonwealth to finance its public schools for the fiscal year under M.G.L. c. 70 and applicable state budget provisions and appropriations.

Cherry Sheet, the official notification made by the Department of Revenue under M.G.L. c. 58, § 25A to municipalities and regional school districts of the amount of estimated local aid they will receive from the Commonwealth for the fiscal year.

Chief executive officer, the mayor in a city and the board of selectmen in a town, unless the charter designates another officer as the chief executive officer.

Current fiscal year, the fiscal year for which a smart growth school cost reimbursement is payable to the municipality.

DHCD, the Department of Housing and Community Development.

DLS, the Division of Local Services within the Department of Revenue.

DOE, the Department of Education.

Education percentage, the average across all municipalities of total education expenditures in relation to total municipal expenditures for the fiscal year, as certified by the DLS, which is calculated by dividing the total actual net school spending of all districts for the year, as defined by the DOE, by the total produced by adding the total regional school district aid and total general fund municipal spending for the year.

Eligible student, a child living in a new smart growth development who is enrolled as of October 1 in a public school in kindergarten through grade 12, attends a private school pursuant to special

education requirements, or is enrolled in a pre-kindergarten or post 12th grade program pursuant to special education requirements.

Local smart growth revenues for education, the portion of additional local revenues generated by a new smart growth development deemed available to defray additional education costs attributable to eligible students for the fiscal year, which is calculated by adding the local smart growth property tax revenues and the local smart growth excise tax revenues for the year and multiplying that total by the education percentage for the year. Local smart growth property tax revenues equal the total property taxes assessed for the fiscal year due to new smart growth development, which is the sum, for each taxable parcel with new smart growth development, of the assessed valuation less the adjusted valuation of the parcel for the year multiplied by the tax rate for the year. Adjusted valuation means the assessed valuation that is attributable to the land and any buildings or structures not improved by new smart growth development. Local smart growth excise tax revenues equal the total excise taxes assessed for the fiscal year on vehicles garaged at a new smart growth development.

New smart growth development, any new residential or commercial development, including the substantial redevelopment of existing properties, subject to local property taxation, that: (a) occurs in a smart growth zoning district after the adoption of such zoning by the municipality, and (b) is permitted under the provisions of the smart growth zoning district. Substantial redevelopment means a redevelopment that costs more than 50 per cent of the building's pre-renovation assessed value or changes the use of the property from nonresidential to residential.

Prior fiscal year, the fiscal year before a smart growth school cost reimbursement is payable to the municipality.

RMV, the Registry of Motor Vehicles.

School superintendent, the superintendent of schools of any municipal or regional school district, or the head of a charter public school where students from the municipality enroll.

Smart growth address list, a list maintained by the DHCD of the addresses of all properties within smart growth zoning districts in each municipality for which it has approved a smart growth zoning district, which identifies those properties for which temporary or permanent occupancy permits have been issued.

Smart growth reporting officer, the person appointed by the chief executive officer of a municipality with a smart growth zoning district to collect all municipal data required to calculate the smart growth school cost reimbursement and report it to the applicable state agencies in a timely manner.

Smart growth school cost reimbursement, the amount of additional education costs attributable to eligible students not defrayed by additional local revenues generated by a new smart growth development, which is calculated by adding the local smart growth revenues for education and additional chapter 70 aid for the year and subtracting that total from the total education cost for eligible students for the year.

Smart growth zoning district, a zoning district adopted by a municipality that the DHCD has approved and determined to be eligible for density bonus payments under M.G.L. c. 40R as of June 30.

Total education cost for eligible students, the additional education costs attributable to eligible students for the fiscal year, which is the sum, for all eligible students, of the average actual net school spending per student of the district that is financially responsible for each eligible student.

(3) Responsibilities of State and Local Officials. This section explains the responsibilities of state and local officials to collect, review, submit or disseminate information or to make calculations or other determinations required for the annual smart growth school cost reimbursement under M.G.L. c. 40S.

(a) State Officials.

1. DLS. The DLS will:

- a. Calculate the general fund municipal spending for the prior fiscal year.
- b. Calculate the education percentage for the prior fiscal year.
- c. Calculate the amount of the smart growth school cost reimbursement for each eligible municipality for the current fiscal year.
- d. Revise the Cherry Sheet for each eligible municipality to include the reimbursement as unrestricted local aid for the current fiscal year and include that amount as estimated local aid on the Cherry Sheet issued for the subsequent fiscal year until the actual reimbursement for that year is calculated and a revised Cherry Sheet is issued.
- e. Certify the amount of the reimbursement for each eligible municipality for the current fiscal year to the State Treasurer for payment to the municipality.
- f. Notify the DOE of the amount of the reimbursement made to each eligible municipality for the current fiscal year.

2. DHCD. The DHCD will:

- a. Approve and certify smart growth zoning districts under M.G.L. c. 40R.
- b. Maintain a smart growth address list for each municipality with a smart growth zoning district.
- c. Distribute each eligible municipality's smart growth address list as of July 1 to the smart growth reporting officer of that municipality.
- d. Distribute the smart growth address lists as of July 1 for all eligible municipalities to the DLS, DOE and RMV.

3. DOE. The DOE will:

- a. Calculate the average actual net school spending per student for each school district and the total actual net school spending for all school districts for the prior fiscal year.
- b. Calculate the total education cost for eligible students for each eligible municipality for the prior fiscal year.
- c. Calculate the additional chapter 70 aid attributable to eligible students for each eligible municipality for the prior fiscal year.
- d. Certify the total education cost for eligible students and additional chapter 70 aid for each eligible municipality for the prior fiscal year to DLS.
- e. Include the smart growth school cost reimbursement made to each municipality as school revenue for purposes of determining the applicable school district's compliance with the net school spending requirement for the current fiscal year.

4. RMV. The RMV will:

- a. Distribute a list of motor vehicle excises generated during the prior fiscal year for properties on the smart growth address list to the board of assessors of each eligible municipality.

(b) Local Officials.

1. Smart growth reporting officer. The smart growth reporting officer will:

- a. Submit the base year assessed valuation for all taxable parcels within an approved smart growth zoning district to the DLS in the manner and form the DLS prescribes.
- b. Submit a list of temporary or permanent occupancy permits issued during the prior fiscal year for properties on the smart growth address list to the DHCD in the manner and form the DHCD prescribes.
- c. Distribute the smart growth address list received from the DHCD to the board of assessors and school superintendents.
- d. Submit the local smart growth property tax and excise tax revenues for the prior fiscal year to the DLS in the manner and form the DLS prescribes.

2. Board of assessors. The board of assessors will:

- a. Report the base year assessed valuation for all taxable parcels within an approved smart growth zoning district to the smart growth reporting officer.

b. Report the local smart growth property tax and excise tax revenues for the prior fiscal year to the smart growth reporting officer.

3. School superintendents. School superintendents will:

a. Report the names and addresses of eligible students attending their district or charter schools for the prior fiscal year to the DOE in the manner and form the DOE prescribes. For this purpose, the DOE will serve as the designee of the smart growth reporting officer.

(4) Reimbursement Procedure and Schedule. State and local officials will carry out the responsibilities described in 830 CMR 40S.1.1(3) according to the following procedure and schedule.

(a) Reimbursement Claim. A municipality may claim a smart growth school cost reimbursement for which it is eligible under M.G.L. c. 40S for a fiscal year by following the procedure and schedule described in 830 CMR 40S.1.1(3) and 830 CMR 40S.1.1(4). Whenever an eligible municipality decides not to claim a reimbursement for a fiscal year, the chief executive officer shall notify the DLS in the manner and form the DLS prescribes.

(b) Base Year. The smart growth reporting officer will submit the base year assessed valuation for all taxable parcels within an approved smart growth zoning district to the DLS within 30 days after the municipality issues its tax bills for that year.

(c) Subsequent Years. For each fiscal year after the base year, state and local officials will carry out their responsibilities according to the following schedule:

<u>Date</u>	<u>Official</u>	<u>Action</u>
1. July 1	Smart growth reporting officer	Submit occupancy permits issued in prior fiscal year for properties in approved smart growth zoning districts to DHCD
2. July 22	DHCD	Distribute smart growth address list as of July 1 to smart growth reporting officers, DLS, DOE and RMV
3. August 1	Smart growth reporting officer	Distribute smart growth address list received from DHCD to board of assessors and school superintendents
4. September 1	RMV	Distribute list of motor vehicle excises generated during prior fiscal year for properties on smart growth address list received from DHCD to board of assessors of each municipality
5. September 1	School superintendents	Report eligible pupils as of prior October 1 to DOE
6. September 1	Board of assessors	Report local smart growth property tax and excise tax revenues

for prior fiscal year to smart growth reporting officer

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|-----------------|--------------------------------|--|
| 7. September 15 | Smart growth reporting officer | Submit local smart growth property tax and excise tax revenues for prior fiscal year to DLS |
| 8. October 1 | DOE | Calculate total net school spending of all districts for prior fiscal year and submit to DLS

Calculate total education cost for eligible students and additional chapter 70 aid for prior fiscal year for each eligible municipality and submit to DLS |
| 9. October 15 | DLS | Calculate total regional school district aid and general fund municipal spending for prior fiscal year

Calculate education percentage for prior fiscal year

Calculate smart growth school cost reimbursement for each eligible municipality and certify the reimbursements to the State Treasurer for payment

Revise current fiscal year Cherry Sheet of each eligible municipality to include reimbursement and notify each municipality of revision

Notify DOE of reimbursement for each eligible municipality |

(5) Reimbursement Computation. This section explains how the smart growth reimbursement will be calculated for each eligible municipality each year.

(a) Calculation Formula. The smart growth school cost reimbursement for each eligible municipality for the current fiscal year is computed by subtracting the sum of local smart growth revenues for education and additional chapter 70 aid for the prior fiscal year from the total education cost for eligible students for the prior fiscal year.

(b) Example. For the fiscal year 2008 reimbursement, the Town of Dana reports that 10 students who lived in a smart growth zoning district were enrolled in the town's school district on October 1, 2006 and that it had local smart growth property tax and excise tax revenues of \$85,000 for fiscal year 2007. The DOE calculates that the town had \$90,000 in total educational costs for eligible students for fiscal year 2007 based on a \$9,000 net school spending per pupil rate for that school district in fiscal year 2007. The DOE also determines that Dana received \$500 in additional chapter 70 aid attributable to the 10 students in fiscal year 2007. The DLS determines that the percentage of total general fund spending by municipalities devoted to schools (the education percentage) for fiscal year 2007 was 53% and calculates that the town had \$45,050 in local smart growth revenues for education for fiscal year 2007. The town's smart growth school

cost reimbursement is \$44,450 [\$90,000 total educational costs for eligible students - \$45,550 (\$45,050 local smart growth revenues for education + \$500 additional chapter 70 aid)].

REGULATORY AUTHORITY

830 CMR 40S.1.1: M.G.L. c. 14, § 6(1); c. 62C, § 3

REGULATORY HISTORY:

Date of Promulgation: 2/8/08